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March 29, 2006

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius [Affiliates] an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended
Docket No. 2005-57-C

Dear Mr. Terreni:

In compliance with the Commission's directive during the March 23, 2005 hearing in this docket, BellSouth Telecommunications, Inc. respectfully submits this letter addressing the ability of the Public Service Commission of South Carolina ("Commission") to certify a question to the Supreme Court of South Carolina. As explained below, the Supreme Court's rules do not allow the Commission to do so.

Rule 228 of the South Carolina Court Rules, a copy of which is attached as Exhibit A to this letter, governs the certification of questions of law to the Supreme Court. Subsection (a) of that Rule provides that:

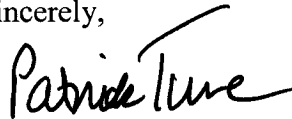
The Supreme Court in its discretion may answer questions of law certified to it by any federal court of the United States or the highest appellate court or an intermediate appellate court of any other state, when requested by the certifying court if there are involved in any proceeding before that court questions of law of this state which may be determinative of the cause then pending in the certifying court when it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court. (Emphasis added).

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This rule makes it clear that neither a court of this state nor an administrative agency of this state is permitted to certify a question to the Supreme Court of this state.¹ Instead, courts or agencies issue rulings on such questions, and the parties have the option of appealing those rulings.

As noted on the attached Certificate of Service, BellSouth is providing a copy of this letter to counsel for all parties to this proceeding as well as to counsel for Nelson Mullins and Mr. Russell.

Sincerely,

A handwritten signature in black ink that reads "Patrick W. Turner". The signature is written in a cursive, flowing style.

Patrick W. Turner

PWT/nml
cc: All Parties of Record

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¹ The rule allows appellate courts of this state to certify questions to the courts of *another* state in certain circumstances, *id.*, 228(g), but these provisions clearly do not apply in this case.

EXHIBIT A

court. In all other cases, the petition for bail shall be made to the Supreme Court. The petition and any return or reply shall comply with the requirements of Rule 224. The authority to grant bail will be exercised with caution and only in exceptional cases. In deciding whether to exercise the discretionary authority to admit an applicant to bail, the following factors will be considered: the probability the applicant will prevail on appellate review and the nature of the relief he or she will receive; the seriousness of the criminal offense committed; the danger the applicant may pose to the community if he or she is released; the likelihood that the applicant may flee if released; and the character and circumstances of the applicant. If bail is granted, the court may require the posting of a bond and impose other conditions. A party aggrieved by the decision of the lower court regarding bail may petition the Supreme Court for review of that decision.

(1) Transfer of Cases to the Court of Appeals. The Supreme Court may transfer a case filed under this rule to the Court of Appeals. If transferred, the Court of Appeals shall proceed with the case in the same manner as the Supreme Court would have done under this rule with the exception that a petition for a writ of certiorari may be granted by one judge of a three-judge panel. Review of any final decision of the Court of Appeals shall be by a petition for a writ of certiorari under Rule 226, SCACR.

[Adopted effective September 1, 1990. Amended effective July 1, 1993; July 1, 2000; effective May 1, 2005.]

RULE 228. CERTIFICATION OF QUESTIONS OF LAW

(a) Scope of Certification. The Supreme Court in its discretion may answer questions of law certified to it by any federal court of the United States or the highest appellate court or an intermediate appellate court of any other state, when requested by the certifying court if there are involved in any proceeding before that court questions of law of this state which may be determinative of the cause then pending in the certifying court when it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court.

(b) Procedure. The certification order shall be signed by the presiding judge or the chief judge, and forwarded to the Supreme Court by the clerk of the certifying court under its official seal. A certification order shall set forth the questions of law to be answered, all findings of fact relevant to the questions certified, and a statement showing fully the nature of the controversy in which the questions arose. The Supreme Court may request the original or copies of all or of any portion of the record before the certifying court to be filed with the Court, if, in the opinion of the Supreme Court, the record or a portion thereof may be necessary in deciding to accept or in answering the questions.

(c) Action by the Supreme Court. Within forty-five (45) days of receiving a certification order, the Supreme Court shall notify the certifying court and the parties of its decision to answer or refuse to answer the questions certified. At the same time the Supreme Court gives notice of its decision to answer the questions, it shall also inform the certifying court and the parties of the approximate date the questions will come before the Supreme Court for consideration.

(d) Briefs. The plaintiff in the trial court or the appealing party in the appellate court shall serve and file his brief within thirty (30) days from the date of receipt of the notice from the Supreme Court specified in Rule 228(c) and the opposing party shall serve and file a respondent's brief within thirty (30) days after service of copies of the plaintiff's or appellant's brief. Within ten (10) days after service of the respondent's brief, the plaintiff or appellant may serve and file a reply brief. The brief shall, to the extent possible, have the same content as briefs under Rule 208(b), and shall be served and filed in the same number and manner as provided by Rule 211, to include proof of service.

(e) Rescission of Certification. The Supreme Court, in its discretion, may rescind its agreement to answer a certified question. Upon deciding to rescind, the Supreme Court shall notify the parties and the certifying court of its action.

(f) Decision. The written opinion of the Supreme Court stating the law governing the questions certified shall be sent to the certifying court and to the parties by the Clerk under the seal of the Supreme Court. The decision shall be accorded the same force and effect as any other decision of the Supreme Court and shall be published with the opinions of the Supreme Court.

(g) Certification to Other Courts. An appellate court, on its own motion or the motion of any party, may order certification of questions of law to the highest court of any state when it appears to the court that there are involved in any proceeding before the court questions of law of the receiving state which may be determinative of the cause then pending in the court and it appears to the court that there are no controlling precedents in the decisions of the highest court or intermediate appellate courts of the receiving state. The procedures for certification from this State to the receiving state shall be those provided in the laws of the receiving state.

[Adopted effective September 1, 1990; amended effective July 1, 2000.]

RULE 229. ORIGINAL JURISDICTION OF THE SUPREME COURT

(a) When Appropriate. The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the

STATE OF SOUTH CAROLINA

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CERTIFICATE OF SERVICE

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COUNTY OF RICHLAND

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The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth's Letter dated March 29, 2006 in Docket No. 2005-57-C to be served upon the following this March 29, 2006:

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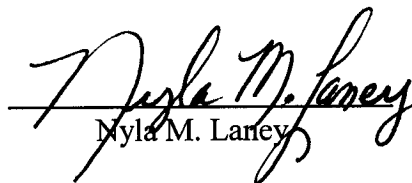
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